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Attorneys for Defendants

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

DANIEL G. RODONI,

Plaintiff,

v.

ROYAL OUTDOOR PRODUCTS,
INC., WESTLAKE CHEMICAL
CORPORATION, ROYAL GROUP
INC., AXIALL CORPORATION, THE
HOME DEPOT, INC., HOME DEPOT
U.S.A., INC., and JOHN DOES 1
THROUGH 10,

Defendants.

Cause No. _____

**NOTICE OF REMOVAL TO
THE UNITED STATES
DISTRICT COURT**

Pursuant to 28 U.S.C. §§ 1332, 1441, Royal Group Inc. (“Royal Group”) hereby notifies the Court of the removal of the above-captioned action to this Court, and states as follows:

1. Pursuant to 28 U.S.C. § 1332, this action has been removed to federal court based upon diversity of citizenship.

2. Plaintiff Daniel Rodoni filed this action in the Montana Fourth Judicial District Court, Missoula County, Cause No. DV-18-339, on March 21, 2018 (“State Court Action”).

3. Royal Group executed an Acknowledgement and Waiver of Service of a Summons on January 2, 2019.

4. This is a personal injury civil action in which the Plaintiff alleges that the Defendants are liable under a theory of products liability.

5. Pursuant to 28 U.S.C. § 1446(a), a copy of the Complaint and Demand for Jury Trial (“Complaint”) is attached as **Exhibit A**. Summons, along with affidavit of Service and Affidavits of Lost Summons are attached as **Exhibit B**. Royal Group’s Acknowledgement and Waiver of Service of A Summons is attached as **Exhibit C**. A copy of the Case Register in the State Court Action is attached as **Exhibit D**. No other pleadings, orders, or papers have been filed or served in the State Court Action.

6. Pursuant to 28 U.S.C. §1332(a)(1), the United States District Court for the District of Montana has original jurisdiction for the removal of this action as the lawsuit is comprised entirely of a civil nature, is an action between citizens of

different States, and the matter in controversy exceeds the sum or value of seventy-five thousand dollars (\$75,000), exclusive of interest and costs.

Diversity of Citizenship of the Parties

7. There is complete diversity between Plaintiff and Defendants.
 - A. Plaintiff is, and was at the time the Complaint was filed, a citizen of Montana for diversity purposes.
 - B. When in existence, Royal Outdoor Products, Inc., was a Canadian corporation with its headquarters and principal place of business in Ontario, Canada.
 - C. Westlake Chemical Corporation is, and was at the time the Complaint was filed, incorporated in the State of Delaware and its principal place of business is in Houston, Texas.
 - D. Royal Group, Inc., is, and was at the time the Complaint was filed, incorporated in Ontario, Canada, and its principal place of business is in Ontario, Canada.
 - E. Axiall Corporation is, and was at the time the Complaint was filed, incorporated in the State of Delaware and its principal place of business is in Atlanta, Georgia.

F. Home Depot, Inc., is, and was at the time the Complaint was filed, incorporated in the State of Delaware and its principal place of business is in Atlanta, Georgia.

G. Home Depot U.S.A., Inc., is, and was at the time the Complaint was filed, incorporated in the State of Delaware and its principal place of business is in Atlanta, Georgia.

Amount in Controversy and Timeliness of Removal

8. Royal Group accepted service of the Complaint and Summons in the State Court Action on January 2, 2019. *See* January 2, 2019 Acknowledgment of Service, attached as Exhibit C.

9. On June 12, 2018, Plaintiff sent a Demand Letter which is attached as **Exhibit E**. The Demand Letter sets forth a settlement demand for \$175,000, and instructs that Plaintiff values the case in excess of \$300,000. *Id.*

10. As of January 2, 2019, Plaintiff had not served Defendant Royal Group. On January 3, 2019, Royal Group provided Plaintiff with its Acknowledgment and Waiver of Service of a Summons. Plaintiff confirmed his demand (Exhibit E) applied to Royal Group. Therefore, the amount in controversy in this matter exceeds the \$75,000 jurisdictional threshold necessary to establish diversity jurisdiction.

11. This Notice of Removal is being filed within 30 days of service of the Complaint and Summons on Royal Group. This Notice of Removal is timely filed within the 30-day period for removal provided by 28 U.S.C. § 1446(b).

Consent to Removal

12. All of the other named Defendants, who are also represented by the undersigned counsel, join in and consent to removal by Royal Group. 28 U.S.C. § 1446(b)(2)(B)-(C).

Removal Procedure

13. The United States District Court for the District of Montana is the district within which this action is pending under 28 U.S.C. §§1441(a).

14. No previous Notice of Removal has been filed.

15. Pursuant to 28 U.S.C. § 1446(d), Defendants will serve written notice of the filing of this Notice of Removal to all parties in the State Court Action and will promptly file a copy of the notice with the Clerk of Court for the Montana Fourth Judicial District Court, Missoula County.

16. In removing this matter, the Defendants do not waive any defenses to the action, including, but not limited to, statute of limitations, statute of repose, failure to state a claim upon which relief can be granted, improper or lack of service, personal jurisdiction, and/or improper venue.

WHEREFORE, Defendants respectfully request that this case continue to proceed before this Court as an action properly removed.

DATED this 23rd day of January, 2019.

CROWLEY FLECK PLLP

By: /s/ Matthew A. Baldassin

Matthew Baldassin

Matthew Dolphay

Attorneys for Defendants

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing was served upon the following counsel of record, by the means designated below, this 23rd day of January, 2019.

[x] U.S. Mail

Lon J. Dale

[] FedEx

Michael D. Bybee

[] Hand-Delivery

MILODRAGOVICH, DALE & STEINBRENNER, P.C.

[] Facsimile

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[] Email

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[x] CM/ECF

Missoula, MT 59806-4947

Attorneys for Plaintiff

/s/ Matthew A. Baldassin
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